

Amendment No. 5 to SB0118

Watson
Signature of Sponsor

AMEND Senate Bill No. 118*

House Bill No. 490

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding the following as a new chapter:

68-7-101.

(a) There is created the medical cannabis commission. The commission shall serve as a resource for the study of federal and state laws regarding medical cannabis and the preparation of legislation to establish an effective, patient-focused medical cannabis program in this state upon the rescheduling or descheduling of marijuana from Schedule I of the federal Controlled Substances Act (21 U.S.C. § 801, et seq.).

(b) This chapter does not authorize a medical cannabis program to operate in this state, and licenses for such a program shall not be issued, or authorized to be issued, until marijuana is removed from Schedule I of the federal Controlled Substances Act.

68-7-102.

(a) The commission consists of nine (9) members appointed as follows:

(1) The speaker of the senate shall appoint three (3) members, with at least one (1) member being a physician licensed under title 63, chapter 6 or 9 and one (1) member being a pharmacist licensed under title 63, chapter 10;

(2) The speaker of the house of representatives shall appoint three (3) members, with at least one (1) member being a physician licensed under title 63,

chapter 6 or 9 and one (1) member being a pharmacist licensed under title 63, chapter 10; and

(3) The governor shall appoint three (3) members, with one (1) appointed from each grand division.

(b)

(1) Initial appointments begin July 1, 2021, and expire as follows:

(A) Terms for members appointed by the governor expire on June 30, 2023;

(B) Terms for members appointed by the speaker of the senate expire on June 30, 2024; and

(C) Terms for members appointed by the speaker of the house of representatives expire on June 30, 2025.

(2) Following the expiration of initial appointments as prescribed in subdivision (b)(1), all appointments to the commission are for terms of four (4) years and begin on July 1 and terminate on June 30.

(3) All members serve until the expiration of the term to which they were appointed and until their successors are appointed.

(4) A vacancy occurring prior to the expiration of the member's term must be filled in the same manner as the vacated appointment for the remainder of the unexpired term.

(5) Notwithstanding subdivision (b)(3), the appointing authority may remove a member appointed by the authority only for just cause, including misconduct, incompetency, or willful neglect of duty, after first delivering to the member a copy of the charges against the member.

(6) Members are eligible for reappointment to the commission following the expiration of their terms; except, that no member may serve more than two (2) full four-year terms consecutively.

(c)

(1) The appointing authority shall remove from the commission a member who is absent from more than fifty percent (50%) of the scheduled commission meetings in a twenty-four-month period and shall appoint a new member to fill the remainder of the unexpired term.

(2) The presiding officer of the commission shall promptly notify, or cause to be notified, the applicable appointing authority of a member who violates the attendance requirement described in subdivision (c)(1).

(d) The members comprising the commission must be at least thirty (30) years of age and have been residents of this state for at least two (2) years preceding their appointment.

(e) In making appointments to the commission, the appointing authorities shall strive to:

(1) Ensure that the commission is composed of persons who are considered experts in the fields of health care, mental health, business, management, agriculture, or law enforcement and have demonstrated a commitment to integrity, ethics, and professionalism; and

(2) Select persons who are diverse in race, color, sex, ethnicity, national origin, and age, as reflected in the population of this state.

(f) A person who has an economic interest in a business enterprise devoted to medical or recreational cannabis or hemp is not eligible for appointment to the commission. A commission member shall not acquire an economic interest in a business enterprise devoted to medical or recreational cannabis or hemp during the member's term on the commission or within twelve (12) months following the expiration of the member's term. The commission shall take adverse action, which may include a denial or suspension of a medical cannabis license for up to two (2) years, against a business enterprise devoted to medical or recreational cannabis or hemp that provides

an economic interest to a commission member during the member's term or within twelve (12) months following the expiration of the term. For purposes of this subsection (f), "economic interest" means employment or direct ownership of an equity interest in a business enterprise devoted to medical or recreational cannabis or hemp, including direct ownership of stock or shares of the business enterprise.

(g) Prior to beginning their duties, each member of the commission shall take and subscribe to the oath of office provided for state officers.

68-7-103.

(a) The official domicile of the commission is in Nashville. All meetings of the commission must be held in Nashville.

(b) The commission must be impaneled and hold its first meeting no later than October 1, 2021, at which time, and annually thereafter, the members shall elect a chair and other officers as the members deem necessary.

(c) The commission shall meet in Nashville at least once every two (2) months prior to March 1, 2023, and hold other meetings for any period of time as may be necessary for the commission to transact and perform its official duties and functions. Beginning March 1, 2023, the commission is authorized to meet less frequently than once every two (2) months; provided, that the commission shall set and hold regular meetings necessary for the commission to transact and perform its official duties and functions. The commission may hold a special meeting at any time it deems necessary and advisable in the performance of its official duties. Five (5) members of the commission constitute a quorum for the transaction of business or the performance of a duty, power, or function of the commission; provided, that five (5) affirmative votes are required to adopt or report out a resolution or recommendation of the commission. A special meeting may be called by the chair or by a majority of the commission. The commission may participate by electronic or other means of communication pursuant to § 8-44-108 for the benefit of the public and the commission in connection with a meeting

authorized by law; provided, that a physical quorum is maintained at the location of the meeting.

68-7-104. All reimbursement for travel expenses must be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

68-7-105.

(a) The commission shall appoint an executive director qualified by education and experience. The executive director must demonstrate knowledge and experience in the areas of public administration, public health, or law enforcement.

(b) The commission shall fix the salary of the executive director, who shall serve at the pleasure of the commission. The executive director shall be the chief administrative officer of the commission and the appointing authority, as defined in § 8-30-103, exercising general supervision over all persons employed by the commission.

(c) The executive director has the following duties:

(1) Keep a written record of all proceedings and transactions of the commission, which must be open to public inspection during regular office hours;

(2) Assist the commission in researching and examining federal laws, the effectiveness of other states' laws and legislation, and laws and legislation in this state relating to the medical use of cannabis;

(3) Oversee the preparation of recommendations to the general assembly, including proposed legislation;

(4) Represent the commission before the general assembly;

(5) Prepare the agenda, including consent and emergency calendars, and notice to the general public of all meetings and public hearings of the commission;

(6) Employ personnel, within the budget, to assist in carrying out this chapter;

- (7) Carry out all policies that are adopted by the commission;
- (8) Be responsible for the performance of all duties and functions delegated by the commission; and
- (9) Supervise the expenditure of funds.

(d) The executive director shall be reimbursed for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

68-7-106. The commission is attached to the department of health for administrative matters relating to budgeting, audit, and other related items, and for additional administrative support, including the use of information technology systems, human resources support, and clerical assistance as may be necessary for the effective administration and enforcement of this chapter.

68-7-107. The commission shall adopt and implement a conflict of interest policy for its members. The policy must mandate annual written disclosures of financial interests and other possible conflicts of interest and an acknowledgement by commission members that they have read and understand all aspects of the policy. The policy must also require persons who are to be appointed to acknowledge, as a condition of appointment, that they are not in conflict with the conditions of the policy.

68-7-108.

(a) In anticipation of a potential rescheduling or descheduling of marijuana from Schedule I of the federal Controlled Substances Act (21 U.S.C. § 801, et seq.), the commission shall examine federal laws, the effectiveness of other states' laws and legislation, and laws and legislation in this state relating to the medical use of cannabis, specifically considering issues relating to:

- (1) Patient qualification;
- (2) Patient registration;

(3) The role of physicians, nurse practitioners, and physician assistants in recommending and prescribing the medical use of cannabis;

(4) The role of pharmacists in medical cannabis programs for recommending, prescribing, and dispensing medical cannabis;

(5) Preventing nonmedical personnel from recommending, prescribing, and dispensing medical cannabis;

(6) Licensing and regulation of facilities and providers of medical cannabis services, including medical cannabis:

(A) Cultivation;

(B) Processing;

(C) Labelling;

(D) Transporting;

(E) Shipping; and

(F) Distributing;

(7) Establishing guidelines for determining acceptable medical uses;

(8) Testing of medical cannabis to ensure product safety;

(9) The role of other departments and state regulatory agencies and boards;

(10) The role of law enforcement;

(11) Current criminal laws relating to the possession and use of marijuana;

(12) Taxes and fees;

(13)

(A) The development of a recommended standard of care, including, but not limited to:

(i) Medical certification of qualifying diseases or conditions;

- (ii) Treatment methods;
- (iii) Medical history and physical examination, prior medication history, and history of substance abuse;
- (iv) Alternative modalities, including modalities attempted and used;
- (v) Dosing and route of administration recommendations; and
- (vi) Drug interactions and contraindications; and

(B) Requiring that a board that licenses persons who would certify a qualifying medical disease or condition, or dispense medical cannabis, must consider recommended standards of care and adopt by policy an appropriate standard of care before a person licensed by such board may qualify a medical disease or condition, or dispense medical cannabis, under a state medical cannabis program; and

(14) Other issues relevant to the medical use of cannabis.

(b) For the purposes of facilitating patient reciprocity with other states, the commission shall prioritize the recommendations for the creation of a patient registration process or program that includes patients with a qualifying medical disease or condition recommended by the commission.

(c) The commission shall prepare recommendations for how best to establish an effective, patient-focused medical cannabis program in this state and include proposed legislation in its recommendations, including provisions that create an independent and financially self-sufficient commission, to be governed by its appointed members, to administer the program. With its recommendations regarding self-sufficiency, the commission shall also include a strategy for repaying the state general fund for appropriations it receives to establish the commission and any subsequent medical cannabis program.

(d) The commission shall report its findings and recommendations to the general assembly relating to the medical use of cannabis in this state. The report must be submitted in writing to the chief clerks of the senate and the house of representatives and the legislative librarian no later than January 1 of each year, beginning in 2022. The report may be submitted electronically.

68-7-201. For purposes of this chapter:

(1) "Bona fide practitioner-patient relationship" means a practitioner and patient have a treatment or consulting relationship, during the course of which the practitioner has completed an assessment of the patient's medical history and current medical disease or condition, including an appropriate examination and confirmation of the patient having a qualifying medical disease or condition;

(2) "Commission" means the medical cannabis commission;

(3) "Medical cannabis program":

(A) Means a program that authorizes the licensing or regulation of the cultivation, processing, shipping, or distribution of cannabis for medical use; and

(B) Does not include a four-year public or private institution of higher education operating pursuant to § 39-17-402(16)(E);

(4) "Practitioner" means a physician who is licensed to practice medicine in this state pursuant to title 63, chapter 6, or osteopathic medicine in this state pursuant to title 63, chapter 9;

(5) "Qualifying medical disease or condition" means:

(A) Alzheimer's disease;

(B) Amyotrophic lateral sclerosis (ALS);

(C) Cancer, when such disease is diagnosed as end stage or the treatment produces related wasting illness, recalcitrant nausea and vomiting, or pain;

(D) Inflammatory bowel disease, including Crohn's disease and ulcerative colitis;

(E) Epilepsy or seizures;

(F) Multiple sclerosis;

(G) Parkinson's disease;

(H) Human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS); or

(I) Sickle cell disease; and

(6) "Valid letter of attestation" means a letter signed and dated by a practitioner with whom the patient has a bona fide practitioner-patient relationship, that:

(A) Attests that the patient has a qualifying medical disease or condition;

(B) Specifies the patient's qualifying medical disease or condition;

(C) Attests that the patient has received conventional methods of treatment for the patient's qualifying medical disease or condition and those methods have insufficiently addressed the patient's disease or condition, or symptoms of the disease or condition; and

(D) Is only valid six (6) months from the date of the practitioner's signature, or to a date certain that is less than six (6) months from the date of the signature if specified by the practitioner.

SECTION 2. Tennessee Code Annotated, Section 4-29-244(a), is amended by adding the following as a new subdivision:

() Medical cannabis commission, created by § 68-7-101;

SECTION 3. Tennessee Code Annotated, Section 39-17-402(16)(F), is amended by deleting the subdivision and substituting instead the following:

(F) The term "marijuana" does not include oil containing the substance cannabidiol, with less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol, if:

(i)

(a) The bottle containing the oil is labeled by the manufacturer as containing cannabidiol in an amount less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol; and

(b) The person in possession of the oil retains:

(1) Proof of the legal order or recommendation from the issuing state; and

(2) Proof that the person or the person's immediate family member has been diagnosed with intractable seizures or epilepsy by a medical doctor or doctor of osteopathic medicine who is licensed to practice medicine in this state; or

(ii)

(a) The bottle containing the oil is labeled by the manufacturer as containing cannabidiol in an amount less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol on a printed label that includes the manufacturer's name and the expiration date, batch number or lot number, and tetrahydrocannabinol concentration strength of the oil; and

(b) The person in possession of the oil retains:

(1) Proof of the legal order or recommendation from the issuing state;

(2) Proof that the person or the person's immediate family member has been diagnosed with at least one (1) of the following diseases or conditions by a medical doctor or doctor of osteopathic medicine who is licensed to practice medicine in this state:

(A) Alzheimer's disease;

(B) Amyotrophic lateral sclerosis (ALS);

(C) Cancer, when such disease is diagnosed as end stage or the treatment produces related wasting illness, recalcitrant nausea and vomiting, or pain;

(D) Inflammatory bowel disease, including Crohn's disease and ulcerative colitis;

(E) Multiple sclerosis;

(F) Parkinson's disease;

(G) Human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS); or

(H) Sickle cell disease; and

(3) Proof that the person or the person's immediate family member has a valid letter of attestation, as defined in § 68-7-201;

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.